

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|--------------------------------|---|---------------------|
| TEREK RAHEEM DOWNING |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 05-568-SLR |
| |) | |
| CORRECTIONAL OFFICER ART |) | |
| DAVIS, CORRECTIONAL OFFICERS |) | |
| and STAFF – to be named later, |) | |
| FIRST CORRECTIONS MEDICAL, |) | |
| INC., WARDEN THOMAS CARROLL, |) | |
| M. JANE BRADY, DELAWARE |) | |
| DEPARTMENT OF CORRECTIONS and |) | |
| DELAWARE DEPARTMENT OF COURT |) | |
| and TRANSIT, |) | |
| |) | |
| Defendants. |) | |

MOTION FOR ENLARGMENT OF TIME

COMES NOW, State Defendant Art Davis, by and through undersigned counsel, and respectfully moves this Honorable Court to enter an Order granting his Motion for an Enlargement of Time until the Department of Justice’s petition for appointment of conflict counsel is decided and referred. In support of this motion, Defendant Davis offers the following:

1. The undersigned counsel who represents the Department of Correction has determined there is a conflict of interest in representing one of the defendants, a public officer in this federal action, Defendant Art Davis.
2. The undersigned counsel, on behalf of Defendant Davis, asks for an enlargement of time to allow this Honorable Court to decide the *Ex Parte* Motion for Referral to President Judge of Superior Court for Appointment of Counsel, pursuant to Delaware

Supreme Court Rule 68(b)(2) and 10 *Del. C.* § 3925 filed simultaneously with this motion.

WHEREFORE, for the hereinabove reasons, the Defendant Davis respectfully requests that this Court grant this petition for an extension of time to file a responsive pleading.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Ophelia M. Waters
Ophelia M. Waters, I.D. No. 38798
Deputy Attorney General
Carvel State Office Building
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302) 577-8400

Dated: March 6, 2006

Attorney for Department of Correction

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

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| DELAWARE DEPARTMENT OF COURT |) | |
| and TRANSIT, |) | |
| |) | |
| Defendants. |) | |

ORDER

This _____ day of _____, 2006,

WHEREAS, the Defendant Art Davis having requested an enlargement of time in which to file a responsive pleading; and

WHEREAS, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED, that the Defendant Davis' Motion for Enlargement of Time is **GRANTED** until further order of Court.

Honorable Susan L. Robinson

**IN THE UNITED STATES DISTRICT COURT
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| and TRANSIT, |) | |
| |) | |
| Defendants. |) | |

7.1.1 CERTIFICATION OF COUNSEL

Undersigned counsel, Deputy Attorney General Ophelia M. Waters, files this certification in compliance with Rule 7.1.1 of the Local Rules of Civil Procedure and certifies that:

1. The Plaintiff in this action is an unrepresented prisoner incarcerated in the Delaware Correctional Center, Smyrna, Delaware.
2. Since the plaintiff is not able to be reached by telephone and other contact is impractical, the counsel for the Department of Correction has spent no time in attempting to reach an agreement on the subject of the motion for enlargement of time.
3. Counsel for the Department assumes that the motion is opposed.

/s/ Ophelia M. Waters

Ophelia M. Waters, I.D. No. 3879
Deputy Attorney General
Carvel State Office Building
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302) 577-8400

Dated: March 6, 2006

Attorney for Department of Correction

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2006, I electronically filed the Defendants *Motion for Enlargement of Time*, with the Clerk of Court using CM/ECF. I hereby certify that on March 6, 2006, I have mailed by United States Postal Service, the document to the following non-registered participant: Terek Raheem Downing; SBI#: 00292285, Delaware Correctional Center, 1181 Paddock Rd, Smyrna, DE 19977.

/s/ Ophelia M. Waters

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